

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY KENNETH ANDERSON,

Plaintiff

v.

DEPARTMENT OF CORRECTIONS, et al.,

Defendants

Case No.: 2:21-cv-00514-APG-EJY

**Order Accepting Report and
Recommendation**

[ECF No. 28]

On January 4, 2022, Magistrate Judge Youchah recommended that (1) any Title II ADA claims in plaintiff Anthony Anderson's Second Amended Complaint (ECF No. 25) asserted against any individual named defendant be dismissed with prejudice; (2) that his Eighth Amendment claim against Drs. Aranas, Landsman, and Kelly, and Rebeca Kozlof, in their official capacities, be dismissed with prejudice; (3) that his false imprisonment, if intended to be asserted as a separate claim, be dismissed without prejudice and with leave to amend; and (4) that the plaintiff be allowed to file a third amended complaint if pro bono counsel is identified and makes an appearance on his behalf. ECF No. 28.

No one objected to Judge Youchah's report and recommendation. Thus, I am not obligated to conduct a de novo review of the report and recommendation. 28 U.S.C. § 636(b)(1) (requiring district courts to "make a de novo determination of those portions of the report or specified proposed findings to which objection is made"); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) ("the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise" (emphasis in original)). I therefore accept her recommendations.

1 I THEREFORE ORDER that Magistrate Judge Youchah's report and recommendation
2 **(ECF No. 28) is accepted.** Plaintiff Anthony Anderson's Title II ADA claims in the Second
3 Amended Complaint against any individually named defendant, and his Eighth Amendment
4 claim against Drs. Aranas, Landsman, and Kelly, and Rebeca Kozlof, in their official capacities,
5 are dismissed with prejudice. His false imprisonment claim, if intended to be asserted as a
6 separate claim, is dismissed without prejudice and with leave to amend. However, the plaintiff
7 may not file a third amended complaint unless pro bono counsel is identified and makes an
8 appearance on his behalf.

9 Magistrate Judge Youchah did not recommend dismissal of the plaintiff's Title II ADA
10 claims against the State and Nevada Department of Corrections and his Eighth Amendment
11 claims against Drs. Aranas, Landsman, and Kelly, and Rebeca Kozlof, in their individual
12 capacities for money damages. ECF No. 28 at 7. Those claims therefore remain pending
13 regardless of whether the plaintiff files a third amended complaint.

14 DATED this 31st day of January, 2022.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE